

AMENDED IN ASSEMBLY JUNE 18, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 1560

Introduced by Senator Figueroa

February 20, 2002

An act to amend Section 17591 of the Business and Professions Code, relating to telephone solicitations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1560, as amended, Figueroa. Telephone solicitations.

Existing law prohibits certain unfair business practices, including certain advertising practices. Existing law requires the Attorney General, not later than January 1, 2003, to maintain a "do not call" list, containing the telephone numbers and ZIP Codes of residential or wireless telephone subscribers who do not wish to receive unsolicited and unwanted telephone calls from telephone solicitors. Existing law requires telephone solicitors to pay a fee to the Attorney General to obtain copies of the "do not call" list. Existing law provides that *it* is unlawful for a person to obtain a "do not call" list for specified purposes. Existing law makes it a crime to violate any of the provisions governing advertising.

This bill would *delay until April 1, 2003, the requirement that the Attorney General maintain a "do not call list."* The bill would provide that it is unlawful for a person to obtain a ~~"do not call"~~ *the* list for the purpose of selling or leasing ~~the list~~ *it* to a person other than a telephone solicitor or for the purpose of a telephone solicitor selling or leasing the list. The bill would prohibit any person, other than the Attorney

General, from selling or leasing the list . The bill would also prohibit a person from purchasing the list except from the Attorney General.

Because a violation of this bill's provisions with respect to advertising would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17591 of the Business and Professions
2 Code is amended to read:
3 17591. (a) The Attorney General shall not later than ~~January~~
4 ~~April~~ 1, 2003, maintain a “do not call” list, updated no less
5 frequently than quarterly, which shall set forth the California
6 telephone numbers and ZIP Codes, but not the names or addresses,
7 of subscribers, arranged by area code and numerical sequence,
8 who do not wish to receive unsolicited and unwanted telephone
9 calls from telephone solicitors as defined in Section 17592. The
10 “do not call” list shall indicate any exclusions designated by the
11 subscriber as provided in subdivision (b).
12 (b) Subscribers may place their telephone numbers and ZIP
13 Codes on the “do not call” list in the manner prescribed by the
14 Attorney General. The subscriber’s placement on the “do not call”
15 list shall expire three years after the date on which the subscriber’s
16 telephone number and ZIP Code first became available on the list
17 to telephone solicitors. The Attorney General shall triennially
18 charge these subscribers a fee not to exceed one dollar (\$1.00). A
19 subscriber may exclude from the coverage of the “do not call” list
20 telephone calls from entities identified by the subscriber. The
21 subscriber shall designate any exclusions in the manner prescribed
22 by the Attorney General.
23 (c) Telephone solicitors, as defined in Section 17592, shall
24 obtain copies of the “do not call” list by paying a fee to the



1 Attorney General in an amount not to exceed the costs incurred by
 2 the Attorney General in the preparation, maintenance, production,
 3 and distribution of that list. The Attorney General shall establish
 4 a sliding scale fee schedule, charging a telephone solicitor with
 5 more than 1,000 employees or independent contractors the
 6 maximum fee and charging a telephone solicitor with fewer than
 7 the equivalent of five full-time employees or independent
 8 contractors no fee. The Attorney General shall provide a telephone
 9 solicitor the option of paying this fee on a quarterly or annual basis.
 10 The Attorney General shall offer a statewide list and shall also
 11 offer lists of areas within the state. The determination of the
 12 number and definition of areas shall be within the discretion of the
 13 Attorney General. It shall be a violation of this section for anyone,
 14 other than the Attorney General, to sell or lease this list. It shall be
 15 a violation of this section for anybody to purchase this list except
 16 from the Attorney General.

17 (d) The Attorney General shall utilize the best available,
 18 cost-effective technology to ensure that subscribers may easily
 19 place their telephone numbers on the “do not call” list. This
 20 technology includes, but is not limited to, methods by which a
 21 subscriber may effect placement on the list by using a
 22 state-designated Internet Web site or a designated, statewide
 23 toll-free telephone number. When the subscriber utilizes the
 24 toll-free telephone number method, the subscriber shall call from
 25 the telephone that is also the number to be included on the list. The
 26 Attorney General shall also utilize the best available,
 27 cost-effective technology to ensure that telephone solicitors may
 28 easily obtain and manipulate the “do not call” list. This
 29 technology may include, but is not limited to, methods that are
 30 computer compatible and that allow the downloading of the list
 31 and the sorting of the list by ZIP Code and that make the list
 32 available on CD-ROM. The Attorney General may contract with
 33 a private vendor to establish, maintain, and administer the “do not
 34 call” list and a contract entered into in that regard shall include
 35 appropriate provisions to protect the confidentiality of subscriber
 36 information. The Attorney General may promulgate regulations to
 37 implement the provisions of this article.

38 (e) It is the intent of the Legislature that the fees paid to the
 39 Attorney General by telephone solicitors and subscribers be
 40 utilized by the Attorney General in carrying out this article. The

1 Attorney General shall annually reduce the amount of the fee paid
2 by subscribers and telephone solicitors set forth in this section
3 based on revenue history and costs so that the fees do not exceed
4 the actual estimated costs in carrying out this article. The fees
5 obtained by the Attorney General shall be deposited in the Special
6 Telephone Solicitors Fund, which is hereby created. All moneys
7 in the fund shall be subject to annual appropriation in the Budget
8 Act.

9 (f) A person or entity that obtains a “do not call” list shall not
10 use the list for any purpose other than to comply with this article.
11 These unlawful purposes include, but are not limited to, selling or
12 leasing the “do not call” list to a person other than a telephone
13 solicitor, selling or leasing the “do not call” list by a telephone
14 solicitor, causing a subscriber to participate in and be included on,
15 the “do not call” list without the subscriber’s knowledge or
16 consent, selling or leasing the “do not call” list to a person other
17 than a telephone solicitor, selling or leasing by a telephone
18 solicitor of the “do not call” list, and a telephone solicitor, either
19 directly or indirectly, persuading a subscriber with whom it has an
20 established business relationship to place his or her telephone
21 number on the “do not call” list, if the solicitation has the effect
22 of preventing competitors from contacting that solicitor’s
23 customers.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

